

DRACUT ZONING BOARD OF APPEALS

Meeting Minutes of November 19, 2015 at 7:00 p.m. @ Dracut Town Hall Selectmen's Meeting Room, 62 Arlington Street, Dracut.

2015-5 @ 500 & 502 Nashua Road – Variances under Section 2.12.50, Table of Dimensional Requirements of the Dracut Zoning By-Laws to eliminate building encroachments. Petitioner: Frances Grondine.

Chairman Crowley signed in a set of prints drawn by Michael D. Bovio, Professional Land Surveyor with a revised date of November 18, 2015

Mr. Hannaford stated that to address the concern raised at the last meeting regarding the ability to maintain the two (2) buildings, he has added access easements to maintain the buildings for each owner. These are shown on the plan with a double hash line on either side of the proposed lot line. This provides legal access for either party to get between the buildings. The second item regarding the dimension from the existing garage to the proposed side yard lot line is 12.8 feet and will require no change to the variance requested. He did add this dimension to the revised plot plan. He noted that if the side yard variance for the 1.8 feet is approved, this would include the 12.8 feet as this is greater than the variance requested.

Chairman Crowley verified with Mr. Hannaford that his contention is these are two (2) existing non-conforming lots and just realigning the lot lines. Yes!

Mr. Hannaford also reviewed the Variance decision and plan done in 1991 for the canopy over the gas pumps. He found the petition was filed by a tenant who was leasing the gas station from the owner. The plan was prepared for Global Petroleum and does have a deed and plan reference. It does not show a property line between the two. He can only assume that if they did it for Global Petroleum the only point of the plan was for the canopy for the petition itself. There are no setbacks on any of the buildings on the plan, just from the proposed canopy. He feels the entire thrust of this was just that one component with very little thought put into the rest of it. He looked up the deed and plan, it was the original plan going back prior to the 1900's. The deed itself was when this was a separate lot. All the deeds found during his search were as separate lots, never found a deed or plan that actually combined the lots. The house was built about 1949 and the gas station about 1950 prior to zoning and they were on separate lots at the time.

Abutters: Who came forward in favor or in opposition?

Emily Grondine, 15 Tyngsboro Road – She is still concerned about where her lot line is.

Mr. Hannaford gave the Board a letter from Mrs. Frances Grondine authorizing the petitioner to request the variances with a Purchase and Sale Agreement by Mr. Patel.

Chairman Crowley noted it is very confusing to look at the drawing that show both existing and proposed lot lines on the same one. He would still like to see two sets of drawings, one showing the existing lot lines and one showing the new lot lines which would help in making a decision. This would also allow the property line to be staked out for the abutter.

After a brief discussion, Mr. Hannaford requested a short recess to confer with his client. Chairman Crowley reopened the hearing.

There was a discussion about how this petition would be recorded. It is Mr. Hannaford's understanding that the attorney could tie the decision to both lots. Chairman Crowley will check with the town's attorney to see if the Board should vote on this as one (1) or two (2) petitions.

Mr. Hannaford would like to request a continuance to the December meeting. The Board will be looking for one plan with the existing lot lines and dimensions to the lot lines and a second plan with what the lot lines would be should the variances be granted and dimensions to those lot lines with the requested variances. It will be a little easier to see on separate plans and much clearer when it gets recorded. Mr. Hannaford will also pin the lot line so Mrs. Grondine, 15 Tyngsboro Road can see where the properties meet. A motion to continue to the December 17, 2015 meeting was made by Mr. Hamilton and seconded by Mr. Lussier. Mr. Hannaford signed an Extension of Time Agreement Form to December 17, 2105. The Board voted unanimously to continue.

2015-6 & 7 @ 5 Cross Street – Special Permit 2.16.25 and Variance 2.12.50 for proposed addition with two car garage under with insufficient front yard setback on St. James Street and Cross Street. Petitioner: Michael and Amy Donahue.

Chairman Crowley opened the meeting and signed in a set of prints drawn by David Philip Terenzoni, Professional Land Surveyor dated September 30, 2015, Revised October 22, 2015 and October 28, 2015.

Mr. and Mrs. Donahue would like to put a two car garage with a master suite above addition on their house. They need a Special Permit and Variance for (2) front yard setbacks on a corner lot.

They need 11 feet from St. James Street and 3 feet from Cross Street.

Mr. Hamilton noted that the proposed addition is further back than the existing dwelling on Cross Street at 27 feet.

Chairman Crowley noted the shed is close to the lot line. Mr. Donahue stated the shed was there when they purchased the house in 1993. He also noted the above ground pool is at 14.8 feet which is pretty close to the required 15 feet setback. Mr. Donahue stated the pool has been there for ten (10) years with a building permit.

Mr. Mallory questioned if the existing house roof line was being changed. Mr. Donahue answered the roof line will be the same as the existing house, no higher.

Abutters: Who came forward in favor or in opposition? None.

A motion to close was made by Mr. Hamilton and seconded by Mr. Mallory. The Board voted unanimously to close.

A motion to approve the Special Permit was made by Mr. Stephen Hamilton and seconded by Mr. Brian Lussier. Mr. Hamilton noted the front yard on Cross Street is not being impinged any greater than it is now. The Board finds that the petitioner meets the following three requirements of the Special Permit: that the change does not (1) substantially impinge upon any public right of way that adjoins the lot on which the structure is to be constructed; (2) create a danger to public safety by reason of traffic access, flow and circulation; and (3) be out of character with the traditional settlement and construction patterns of the area in which it is to be reconstructed. The Board voted unanimously to approve.

A motion to approve the Variance was made by Mr. Scott Mallory and seconded by Mr. Brian Lussier. It is a single family home and will remain a single family home. Chairman Crowley noted this motion is for the main building only and excludes any of the accessory uses which are a matter of record with the Building Inspector as he sees fit. Mr. Hamilton noted this would include the shed and above ground pool. Mr. Mallory agreed to the motion as amended. Chairman Crowley noted when the Board looks at corner lots it is to keep people from impinging too close to the sight lines at the corners. To Mr. Hamilton's point this is back as far as the house with plenty of ability to see around the corner and the addition of this garage will not impinge on the sight line in any way. The Board finds the petitioner meets the requirements of a Variance as follows: that there is a hardship on the use of the land based on the soil conditions, shape or topography, this requested use does not derogate from the intent of the zoning by-law, and it is not injurious to the neighborhood. The Board voted unanimously to approve.

2015-8 @ 221 Brook Street – Variance to minimum lot size requirements set forth in Section 2.12.50 of the Town of Dracut Zoning By-Laws. Petitioner: Couillard Homes LLC. Chairman Crowley opened the meeting and signed in a set of prints drawn by Michael D. Bovio, Professional Land Surveyor dated October 6, 2015.

Attorney James Harrington will be representing the applicant. This is an application for a variance to the minimum lot area requirements. Attorney Harrington explained there was a variance that was issued in 2003 for the minimum lot area requirements. He gave a brief history as referenced in the attached Memorandum In Support Application For Variance. As noted on the sheet showing a comparison of lots located on Brook Street, this lot shows as the largest fourth lot in area. Attorney Harrington feels granting a variance for the lot area is in harmony with the neighborhood, would not cause any harm to the public good or derogate from the intent of the zoning by-law. The proposed home will be a 24 x 34 colonial which is very similar to a lot of the homes on that end of the street.

Attorney Harrington stated the literal enforcement of the zoning by-law clearly would cause a financial hardship that has been invested in the property based on the variance that was issued previously. That variance was never acted upon and the variance lapsed. The literal enforcement would deplete the property of its economic value. They feel the hardship is related to the shape and topography of the land. The prior owner acquired any possible land he could to increase the size of the lot. There is no additional opportunity to increase the lot area.

The prior variance was reviewed. The total lot area is 37,665 sq. ft. with a wetland area of 9,529 sq. ft. leaving a buildable lot area of 30,995 sq. ft. They are allowed to use 70% of the wetlands to be included for the total buildable area. Attorney Harrington verified that other than ownership, the lot is exactly the same as when the variance was granted.

Abutters: Who came forward in favor or in opposition? None.

A motion to close was made by Mr. Hamilton and seconded by Ms. Santiago-Hutchings. The Board voted unanimously to close.

A motion to approve the Variance was made by Mr. Stephen Hamilton and seconded by Mr. Scott Mallory. This is for a single family home and only a single family home. The Board finds the petitioner meets the requirements of a Variance as follows: that there is a hardship on the use of the land based on the soil conditions, shape or topography, this requested use does not derogate from the intent of the zoning by-law, and it is not injurious to the neighborhood. Those voting in favor were Mr. Stephen Hamilton, Mr. Scott Mallory, Ms. Heather Santiago-Hutchings and Mr. Brian Lussier with Mr. John Crowley voting against. The motion passed on a four (4) to one (1) vote.

Acceptance of Minutes:

A motion to accept the October 22, 2015 minutes was made by Mr. Stephen Hamilton and seconded by Mr. Brian Lussier. The Board voted unanimously to accept the minutes.

Old Business:

Chairman Crowley announced that one additional member is needed for the Board.

New Business:

None.

Next Meeting:

Thursday, December 17, 2015

Adjournment:

A motion to adjourn was made by Mr. Stephen Hamilton and seconded by Mr. Scott Mallory. The Board voted unanimously to adjourn.

Board of Appeals Members

Chairman, John Crowley

Vice Chairman, Stephen Hamilton

Clerk, R. Scott Mallory

Member, Heather Santiago-
Hutchings

Alternate Member, Brian Lussier

Absent
Alternate Member, Richard Ahern